
TITLE IX

Sexual Harassment, Sex and Gender Discrimination, Domestic and Dating Violence, Sexual Assault, and Stalking and Employee-Student Relationships

Title IX Policy Statement

University of the Southwest is an institution built upon integrity, trust, respect, support, and acts of service. In line with these values, USW is committed to providing a safe and non-discriminatory academic, athletic and work environment for all members of its campus community. USW does not discriminate on the basis of sex or gender in any of its programs or activities.

To that end, this policy strictly prohibits gender discrimination, sexual harassment, bullying and intimidation and the crimes of domestic violence, sexual assault, and stalking as defined under New Mexico state law (N.M. Code Ann. § 30) and Title IX of the Education Amendments of 1972.

Such prohibited behavior also requires the University to fulfill certain obligations under the Violence Against Women Reauthorization Act of 2013 and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

The University prohibits sexual assault, sexual exploitation, intimate partner violence, stalking, sexual or gender-based harassment, complicity in the commission of any act prohibited by this policy, and/or retaliation against a person for the good faith reporting of any of these behaviors or participation in any investigation or proceeding under this policy. These behaviors undermine the character and mission of USW and will not be tolerated.

USW adopts this policy with a commitment to:

- (1) eliminating, preventing, and addressing the effects of sexual misconduct;
- (2) fostering a community of trust, in which sexual misconduct is not tolerated;
- (3) cultivating a climate where all individuals are well-informed and supported in reporting sexual misconduct;
- (4) providing a fair, impartial and judicious process for all parties; and
- (5) Identifying the standards by which violations of this policy will be evaluated and disciplinary action may be imposed.

Employees who violate this policy may face disciplinary action up to and including termination or expulsion. The University will take prompt and equitable action to eliminate sexual misconduct, prevent its recurrence, and remedy its effects.

“**Prohibited Conduct**” is an umbrella term used when talking about all prohibited behavior under Title IX including gender discrimination, sexual harassment, bullying and intimidation, retaliation for the assertion of rights, dating violence, domestic violence, sexual assault, and stalking.

Reporting Procedures

All forms of prohibited conduct should be reported *regardless of severity*. USW's primary concern is safety; therefore, individuals should not be deterred in reporting even if the use of alcohol and/or drugs were involved.

USW encourages victims of sexual violence to talk to someone about what happened so they can receive support and so that the institution can respond appropriately. USW offers both *confidential* and *non-confidential* reporting options. It is important to be aware that different individuals who victims contact for assistance following an incident may have different responsibilities regarding confidentiality depending on their position.

Under New Mexico state law, some individuals (e.g., licensed counselors, psychologists or physicians) can assure a victim of confidentiality; however, any other USW employee cannot guarantee complete confidentiality, unless specifically provided by law. As is the case with all colleges and universities, USW must balance the needs of the individual victim with an obligation to protect the safety and well-being of the community at large.

The only completely anonymous employee on campus who is not a "responsible employee" is the university counselor, acting and appointed to that role.

****Note:** For ALL incidents/claims of **sexual assault**, the following persons will be informed **IN ORDER:**

If incident occurs *on campus outside of dorms:*

1. **Victor Hawkins, Director of Security**
2. Taylor Novak, Title IX Coordinator
3. Dr. Ryan Tipton, Executive Vice President and Provost
4. Brian Arnold, University Counselor

If incident occurs *inside the dorms:*

1. **Cory Hitchcock, Director of Housing**
2. **Victor Hawkins, Director of Security**
**Whoever can be reached first*
3. Dr. Ryan Tipton, Executive Vice President and Provost
4. Taylor Novak, Title IX Coordinator
5. Brian Arnold, University Counselor

If the incident occurs *after hours on campus*, persons #3, 4 and 5 above need only be informed via email with a copy of the incident report attached for Title IX and Counseling follow-up.

Any other staff or faculty in positions of authority will be informed of the incident on a NEED-TO-KNOW basis by the Title IX office in consultation with the Provost and/or President.

If any staff or faculty becomes aware of sexual misconduct, he/she will follow the above chain for informing personnel. The persons above understand the chain to follow in informing one another of incidents of sexual assault. ***This means that any other faculty or staff member need only inform person #1 (or #2 if the first contact person cannot be reached).***

For **EVERY** alleged on campus incident of sexual assault, a police report will be made. Should the victim make a report immediately following the alleged incident (up to 120 hours post-assault [Carr, 2011]), first responders will organize transport of the victim to the hospital for a sexual assault evaluation. If the student does not wish to go to the hospital, an ambulance will be called for assessment. The student then has the right to deny transport, which will be documented by USW staff.

**This will be the protocol regardless of preference, mental state, behavioral indicators or physical appearance.*

A referral will always be made to the University Counselor as soon after the incident as possible. If a report of sexual assault is first made to the University Counselor, he/she will encourage report to the Title IX office but cannot break confidentiality to do so him/herself.

Confidential Reporting Options

Confidential reporting options provide students with the ability to confidentially report and discuss an instance of sexual violence without their information being shared with others. Please note confidential reporting limits the institution's ability to respond to incidents.

Non-Confidential Reporting Options

USW and the Clery Act require all employees—excluding counselors, healthcare providers, and, in some cases, campus pastors—who become aware of sexual violence to report the incident to the USW SD and the Title IX Coordinator. The victim's name should **not** be reported without the victim's permission.

The report should include the nature, date, time, and general location of an incident. This is a limited report which includes no information that would directly or indirectly identify the victim. This allows USW personnel to track patterns, evaluate the program, and develop appropriate responses. Copies of reporting forms can be found below:

- [Complaint Record](#)
- [Witness Statement](#)

When an incident of sexual violence is reported to a “*responsible employee*,” the reporter can expect the incident will be reported to the Title IX Coordinator and the Dean of Students. A responsible employee must report all relevant details about the alleged sexual harassment, sexual violence, or stalking behaviors shared by the victim including names, date, time and specific location of the alleged incident.

To the greatest extent possible, information reported to a responsible employee will be shared on a **need-to-know basis**. A responsible employee should not share information about the victim to law enforcement.

A “responsible employee” is an employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. Examples include, but are not limited to, faculty members, advisors, coaches, staff and anyone in a supervisory role. The University Counselor is exempt from this duty to report if the claim is disclosed in the *context of a counseling session*. However, he may encourage the victim to report but cannot break confidentiality as a part of his professional obligations without his/her consent or legal subpoena.

When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the institution will investigate the alleged sexual violence, end any sexual violence, prevent the sexual violence from reoccurring, and educate the campus community on sexual violence.

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations and informs the victim that he/she ***cannot maintain confidentiality***. Instead, he/she should be directed to the Title IX Coordinator.

If it is determined that the institution cannot maintain a victim's confidentiality, the institution will inform the victim prior to starting an investigation. USW will remain mindful of the victim's well-being and take appropriate steps to protect the victim from retaliation or harm. The institution may not require a victim to participate in any investigation or conduct process should he/she express discomfort in doing so. Retaliation against the victim, whether by students or institution employees, will not be tolerated and is reportable to the Department of Education under Title IX.

Reporting to the Police

USW strongly encourages individuals to report sexual violence and any other criminal offense to the Hobbs Police Department. This does not commit you to prosecute but will allow the gathering of information and evidence. The information and evidence preserve future options regarding criminal prosecution, institution conduct actions and/or civil actions against the perpetrator.

If the incident happens on campus, it can be reported to the USW SD Department at 575.942.5902 (non-emergency) or 9-1-1 (emergency). If the incident occurs elsewhere in the city of Hobbs, it can be reported to the Hobbs Police Department at 575.397.9265. If the incident takes place anywhere else, it can be reported to the local law enforcement with jurisdiction in the location where the sexual violence occurs.

Please know that the information you report can be helpful in supporting other reports and preventing further incidents.

What to do if you are a Victim of Sexual Violence

If you are not safe and need immediate help, call 9-1-1. If an incident happens on campus, call USW SD at **575.942.5902**. If the incident occurred elsewhere in the city of Hobbs, call the Hobbs Police Department at 575.397.9265.

Do what you need to do to feel safe. Go to a safe place or contact someone with whom you are comfortable. Call the New Mexico Coalition of Sexual Assault Programs at 1.888.883.8020 for advice, and discuss options for how to proceed.

Do not shower, bathe, douche, change or destroy clothes, eat, drink, smoke, chew gum, take any medications or straighten the room or place of the incident. Preserving evidence is critical for criminal prosecution. Although you may not want to prosecute immediately after the incident, that choice will not be available without credible evidence. The evidence collected can also be useful in the campus conduct process.

It is important to have a thorough medical examination after a sexual assault even if you do not have any apparent physical injuries. Medical providers can treat any injuries and provide tests for sexually transmitted diseases.

You may seek medical care at any health care facility. While in the emergency room, treatment will be provided for sexually transmitted diseases and to prevent pregnancy.

Other Local Services Available

City of Hobbs Police Department

Emergency: 9-1-1

Non-emergency: 575.397.9265

Option, Inc.

Emergency Shelter for Domestic Violence

575.397.1576 (24/7)

200 N Dalmont St, Hobbs NM 88240

Arise Sexual Assault Services

575.226.7263 (24/7)

1412 S. Avenue O, Suite B

Portales, New Mexico 88130

info@arisenm.org

University of the Southwest Counselor

Mr. Brian Arnold

575.492.2104

Fadke Arts and Sciences Building, Office 117

barnold@usw.edu

University of the Southwest Title IX Coordinator

Taylor Novak

575.492.2149

Mabee Teaching and Learning Building, Office 137

tnovak@usw.edu

Sexual Harassment Policy Statement

Statement of philosophy. The University of the Southwest does not tolerate sexual harassment or any other type of harassment by employees, trustees, students, or third parties engaged in business or other authorized activities at the University. Harassment is illegal and unfairly interferes with the opportunity for all persons, regardless of gender, to have a comfortable and productive education and work environment. University of the Southwest is committed to providing an educational and work environment free of discrimination, harassment and/or retaliation in any form.

B. Statement of prohibited conduct. Sexual harassment is any threatening, demeaning, or offensive conduct or situation that unreasonably interferes with a person's ability to perform his or her job or educational pursuits and is based on the gender of the person affected and

especially including that person's real or perceived subordinate status of authority. This harassment includes, but is not limited to:

- unwelcome requests for dates with a student by an employee
- persistent requests for a date with another employee
- requests for sexual favors or acts
- continued expression of sexual interest after being informed that the interest is unwelcome
- physical contact which is unwelcome/without consent; offensive gestures or touching of another person
- displaying or possessing nude or seminude posters, photos, cartoons, or graffiti in the workplace or public place (including computers or other similar devices) that are demeaning or offensive
- unwelcome visual contact, such as leering or staring at another person or making facial expressions which are of a sexual nature, demeaning or offensive
- verbal or written comments, statements, noises, or jokes that are demeaning, humiliating, suggestive, insulting, vulgar, or lewd, and which are communicated by any means, including but not limited to, telephone, email, text message, or internet posting
- failure to provide assistance that is usual under same or similar circumstances because of a person's sex
- retaliation, retribution, or reprisals in any form or manner following complaints about harassment or requests that harassing conduct stop or after assisting a person with a complaint of harassment
- physical interference with job performance
- preferential treatment or promise of preferential treatment for submitting to sexual conduct or threat of negative treatment if a person does not submit to requests or demands for sexual conduct

The list set forth above is not intended to be, nor should it be construed as all-inclusive of prohibited acts under this policy.

- C. Scope of policy.** This policy applies to all members of the Board of Trustees, administrators, faculty, staff, employees, agents, and students at all times and places in any connection with this institution. This policy applies for and to those who do business at USW. Compliance with this policy is a term and condition of employment or matriculation with this institution. The terms *employee* or *employment* include, but are not limited to, faculty, staff, administrators, agents, and contractors. The term matriculation refers to students admitted to the University.
- D. Contact Persons.** Complaints of harassment may be made to any of the following persons: President, Senior Administrators, Deans, Title IX Coordinator, Director of Security, Assistant VP of Human Resources or the Director of Student Life.
- E. Procedures.** The purposes of these procedures are to provide a prompt and fair resolution of complaints and to preserve the due process rights of all involved, including the rights to receive notice of complaints and to have an opportunity for an impartial investigation. These procedures also are created to provide for corrective action for violations of this policy. However, the University may take any immediate action it deems reasonably necessary to stop harassment, and the University is not limited to the process described herein.

Any person who believes he or she has been subjected to any form of harassment and/or discrimination, and any person who witnesses or has knowledge of harassing conduct, should report that conduct to his/her immediate supervisor or any of the Contact Persons identified herein within three calendar days of the offense. Employees are not required to approach the person who is harassing and/or discriminating against them, and they may bypass any offending member of management.

The report may be oral or in writing and should provide the specific details of the behavior believed to be harassment. The Contact Person to whom the report is made will take the necessary steps to initiate an investigation of the discrimination and/or harassment claim, including completing an Intake Form.

The University will conduct its investigation of harassment claims in as confidential a manner as possible. Interviews, allegations, statements, and identities will be kept confidential to the extent possible allowed by law. However, the University will not allow the goal of confidentiality to be a deterrent to an effective investigation. A timely resolution of each complaint will be reached and communicated to the person making the complaint and the person(s) against whom such complaint is made. All reasonable attempts will be made to complete this entire process in not more than 30 days from the date of the completion of an Intake Form.

- F. Corrective Action.** When an investigation results in a determination that harassment or retaliation has occurred, appropriate corrective action, up to and including termination/dismissal will be taken promptly. The corrective action will be proportional to the severity of the conduct. A record of such corrective action shall be signed by the person subject to such action and a copy placed in such person's personnel or student file. If the harassment is committed by a third party, the University will take all reasonable steps under the circumstances to stop such harassment.
- G. Prohibition of Retaliation.** Any retaliation against a complainant or witnesses or someone who assists in investigating such complaints is prohibited specifically by this policy. If an employee believes he or she has been subjected to any form of retaliation, the employee should report such conduct to his or her immediate supervisor or any of the Contact Persons within three calendar days of the offense. Employees are not required to approach the person who is retaliating against them, and they may bypass any offending member of management. Claims of retaliation will be investigated in the same manner as complaints of harassment, and if retaliation is found to have occurred, corrective action will be taken as described herein.
- H.** The University will provide copies of this policy to all employees and will require employees to acknowledge receipt of the policy.
- I. Training.** The University will conduct training sessions for all employees, agents, supervisors, and administrators regarding this policy and regarding prevention of sexual harassment. The intent of this training is to produce an institution that is free of harassment and that provides the opportunity for everyone to reach full potential in the performance of his or her assigned job or educational pursuit.

Employee-Student Relationships

University of the Southwest is committed to creating an atmosphere of mutual trust and respect in which all members of the community can work together freely to accomplish the mission of the University. All employees must recognize that our mission is to educate and serve students. A central component of this mission is to maintain learning and work environments free from conflict of interest, harassment, exploitation, bias and favoritism.

When employees interact with students, they are in a position of trust and power. These relationships must not jeopardize the effective functioning of the university by the appearance of either favoritism or unfairness in the exercise of professional judgment. In relationships with students, the employee is expected to be aware of his/her professional responsibilities and to avoid apparent or actual conflict of interest, harassment, exploitation, bias or favoritism.

Employees, whether faculty or staff, shall not engage in consensual romantic and/or sexual relations with students whenever the employee has a “position of authority” with respect to the student including teaching, evaluating, supervising, advising or coaching a student as part of a school program, athletic team or employment situation. These relationships are deemed “inappropriate.” Efforts by employees to initiate these relationships with students must also be avoided.

Regardless of position or contact, an employee’s professional responsibilities make it possible for him or her to influence the status or circumstances of any student; therefore, even in instances where it appears an employee does not have a direct influence over a student, inappropriate relationships are prohibited.

In the event a romantic and/or sexual relationship exists or develops between an employee and a student of the university, the following guidelines must be met:

1. The employee shall immediately report the relationship in confidence to his or her immediate supervisor who will inform the Provost;
2. The student shall report the relationship in confidence to the Provost or Title IX Coordinator (who will inform the Provost); and
3. A plan for resolving the conflict of interest will be developed wherein the supervisor and Provost shall make suitable arrangements for the objective evaluation of the student’s academic performance and/or work performance for the protection of individual and university interests.

To the greatest extent possible, these discussions and subsequent plans will be held in confidence.

If an employee in a “position of authority” over a student with whom an inappropriate relationship exists or develops fails to report him/herself, it will be determined that he/she has created a conflict of interest and has violated an ethical obligation owed to students, other employees, colleagues and the university. He/she will be subject to sanctions up to and including dismissal. Similarly, a student who fails to report an inappropriate relationship with an employee in a “position of authority” may also be subject to sanctions.

Credible allegations of a faculty or staff member failure to report the existence of a relationship between a student and an employee compels the immediate supervisor to conduct a prompt and thorough inquiry to determine whether there is any validity to the allegation. This inquiry will be completed in consultation with the Provost and Title IX Coordinator to ensure policies under Title IX have not been violated. When

it is concluded that a prohibited relationship exists, the immediate supervisor and Provost shall undertake a resolution to the conflict of interest and may impose sanctions against the employee up to and including dismissal.